

**REMARKS**

Applicants thank the Examiner for the Notice of Allowance issued on July 22, 2004, indicating that claims 3, 6, and 9 have been allowed. This Response addresses issues raised in a Notice of Drawing Inconsistency with Specification, issued August 17, 2004.

The amendments to the Specification, introducing the SEQ ID numbers for the sequences referenced in the Brief Description of Fig. 3, and shown in Fig. 3, do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, entry of the amendments is respectfully requested.

**1. Inconsistency between the Drawings and the Specification**

The Office Action asserts that there is an inconsistency between the drawings filed June 24, 2004 and the Brief Description of the Drawings in the Specification, because "Figures 3 are contained in the Drawings but not listed in the Brief Description of the Drawings in the Specification." Correction is required.

Applicants respectfully traverse the incorrect assertion in the Notice of Drawing Inconsistency with Specification that Fig. 3 is not listed in the Brief Description of the Drawings. As filed, the Specification describes Fig. 3 at page 12, lines 10-11, as follows: "Fig. 3 shows a base sequence of the levansucrase gene and an amino acid sequence deduced therefrom." Thus, in the

Specification, Fig. 3 is described as showing a DNA base sequence and a corresponding protein sequence. Fig. 3 in fact depicts exactly that: a base sequence and a corresponding amino acid sequence; there is no inconsistency.

Applicants thank the Examiner for correctly pointing out in the Notice of Allowability dated July 22, 2004 that there is a SEQ ID NO. for only the DNA sequence in amended Fig. 3, but not for the corresponding deduced amino acid sequence. Further, in reviewing the Application, Applicants also note that the Brief Description of Fig. 3 does not indicate SEQ ID numbers for the two sequences described.

In order to advance prosecution, Applicants have amended both the Specification and Fig. 3 to indicate the SEQ ID NO. for both the DNA and protein sequences, as described in the Specification and as shown in the drawing.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the Notice of Drawing Inconsistency with Specification.

#### **CONCLUSION**

Based upon the above remarks, the present application is in condition to proceed to issuance. The Examiner is therefore respectfully requested to reconsider and withdraw the Notice of

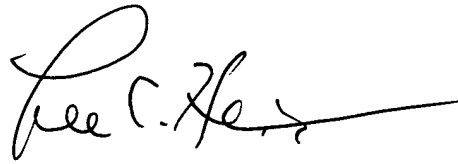
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Drawing Inconsistency with Specification and permit the application to proceed to issuance after the Issue Fee is paid.

The Examiner is welcomed to telephone the undersigned attorney if he has any questions or comments.

Respectfully submitted,

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